

REMARKS

Claims 1-13 have been examined. Applicant is adding new claim 14. Applicant thanks the Examiner for indicating that claims 4-6 and 11-13 would be allowable if rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph and to include all the limitations of the base claim and any intervening claims. Applicant respectfully requests that the Examiner hold in abeyance the requirement of rewriting these claims in independent form, in view of the following.

Claim Rejection Under 35 U.S.C. §112, second paragraph

The Examiner has rejected claims 1, 4-6 and 11-13 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite, for the reasons set forth on page 2, paragraphs 1 and 2 of the Office action.

Applicant has amended these claims in a manner that addresses the issues raised by the Examiner. Accordingly, Applicant respectfully requests that the rejection of claims 1, 4-6 and 11-13 under 35 U.S.C. §112, second paragraph, be withdrawn.

Claim Rejection Under 35 U.S.C. §103(a)

The Examiner has rejected claims 1-3 and 7-10 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,029,065 (hereinafter Shah). Applicant respectfully traverses this rejection.

With regard to claim 1, Shah fails to teach or suggest a method of downloading re-programming data that includes broadcasting frequency and radio access parameters on a first dedicated channel. On page 3 of Applicant's specification, a first dedicated channel (pilot channel) is a channel separate from a traffic channel and a control channel.

The Examiner alleges that column 7, lines 17-30 of Shah teaches or suggests the above-mentioned aspect of the method of claim 1. Applicant respectfully disagrees.

Shah describes that the base station, while on the paging channel, directs the mobile station to move to an assigned traffic channel. Indisputably, Shah relies on air-interface standards, such as Interim Standards 95, where control channels are utilized for the allegedly corresponding downloading of re-programming data. *Id.* Indeed, Shah specifically discloses that paging and access channels are control channels per IS-95 specifications. (Col. 8, lines 56-58 of Shah). Thus, Shah fails to teach or suggest the claimed first dedicated channel.

For at least these reasons, Applicant respectfully requests that the rejection of claim 1 based on Shah be withdrawn. Claims 2-3 and 7 should be patentable at least by virtue of their dependency on claim 1.

With regard to method claim 8, the method includes broadcasting at least frequency and radio access parameters of the second channel on the first channel for dedicated use. Shah fails to suggest the claimed first dedicated channel.

Accordingly, Applicant respectfully requests that the rejection of claim 8 based on Shah be withdrawn. Claims 9-10 should be patentable at least by virtue of their dependency on claim 8.

Claims 4-6 and 11-13 should be patentable at least by virtue of their dependency on base claims 1 and 8, respectively.

New claim 14 should be patentable at least by virtue of its dependency on claim 1.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David A. Sumy', written over a horizontal line.

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